

Re: State of Oklahoma et al v. Tyson et al

Page 1 of 17

Xidis, Claire

From: James Graves [jgraves@bassettlawfirm.com]
Sent: Wednesday, December 24, 2008 11:49 AM
To: Xidis, Claire
Cc: Ward, Liza
Subject: RE: State of Oklahoma et al v. Tyson et al

Claire,

I was able to consult with my client on this, and we will be producing income/expense information going back 5 years, subject to the protective order entered in the case and identified as "attorney's eyes only" to avoid disclosure to the public or to George's competitors (ie the other defendants in the case), and preserving all of our objections to producing such information.

We will not produce statements of cash flows, audit information, income tax returns, etc that were requested. We do not see how any of that information is discoverable or relevant to any claims in the lawsuit.

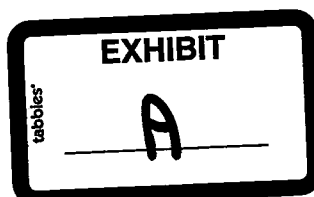
Thank you,

James M. Graves
Bassett Law Firm LLP
221 North College Avenue
Post Office Box 3618
Fayetteville, Arkansas 72702-3618
United States of America
Phone: (479) 521-9996
Fax: (479) 521-9600

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2/27/2009



Re: State of Oklahoma et al v. Tyson et al

Page 2 of 17

From: Xidis, Claire [mailto:cxidis@motleyrice.com]
Sent: Thursday, December 18, 2008 12:55 PM
To: James Graves
Cc: Ward, Liza
Subject: FW: State of Oklahoma et al v. Tyson et al

James,

I disagree with your portrayal of events below, but since we've gone over this repeatedly, I will not waste any more time on the issue of our initial meet and confer.

Please let me know as quickly as possible what you decide to do so that we can determine what our next step needs to be.

Claire Xidis | Attorney at Law | Motley Rice LLC
 28 Bridgeside Blvd. | Mt. Pleasant, SC 29464 | cxidis@motleyrice.com
 o. 843.216.9251 | c. 843.834.4747 | f. 843.216.9450

From: James Graves [mailto:jgraves@bassettlawfirm.com]
Sent: Tuesday, December 16, 2008 6:36 PM
To: Xidis, Claire
Subject: RE: State of Oklahoma et al v. Tyson et al

George's has already produced "financial statements" in the form of net worth, as agreed. You are offended by my suggestion that you all have acted in bad faith, but you have essentially suggested that I have done so by stating that I agreed to something that I never agreed to. And I happen to know from discussion with counsel representing other defendants that they agreed to produce very similar information based upon what happened in my meet and confer with the State, which was the first one. That is why I know that there was no misunderstanding, because defense counsel in separate conversations all seem to have miraculously misunderstood you in the same way. Perhaps you wish you had agreed to something different now, but we both know that on November 10th you agreed to accept net worth information going back 5 years in the form produced in the Tulsa litigation, with the reservation that if the information was not detailed enough on assets, liabilities or equity you could request additional detail. I also told you at the time that if I produced the net worth information, I was doing so while reserving my objections to producing private confidential financial information and in part to avoid motions to compel, and that if you were going to accept the materials I was offering as only partial fulfillment of the discovery request and still file a motion to compel anyway, I would just not produce anything – the whole point was to avoid court filings and intervention. I specifically told you that it was an all or nothing proposition – that we felt strongly about the proprietary nature of the information but in the interests of avoiding court intervention we would produce something acceptable to both sides so long as the State agreed that the production constituted satisfaction of the request and I didn't still have to oppose a motion to compel.

Nevertheless, I am considering whether to produce additional financials in the form of income/expense information based upon your most recent explanation. I will have to confer with my client about this and get back with you. I have seen nothing in your emails that would provide any basis whatsoever for obtaining income tax returns, cash flow information, auditor's notes or other materials requested in the initial RFPD or the letter that led to the meet and confer. Thus, as I stated at the meet and confer, under no circumstances will we agree to voluntarily produce those. However, we are reconsidering with respect to income/expense information only based on the explanation you provided yesterday.

2/27/2009

Re: State of Oklahoma et al v. Tyson et al

Page 3 of 17

If this advances the discussion, please let me know. If not, then I suppose you will need to file your motion.

Thank you,

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From: Xidis, Claire [mailto:cxidis@motleyrice.com]
Sent: Tuesday, December 16, 2008 5:05 PM
To: James Graves
Cc: Ward, Liza
Subject: RE: State of Oklahoma et al v. Tyson et al

No, that is not correct.

At this point I have now asked you multiple times *since* our initial meet and confer if you would please produce certain financial information, and I have explained why the initial production was insufficient, why we believe it the materials we are are requesting are relevant and why we need the information per your request. If you are still unwilling to produce it, then I guess we just need to agree to disagree at this point and we have satisfied the meet and confer requirements on this specific outstanding issue.

2/27/2009

Re: State of Oklahoma et al v. Tyson et al

Page 4 of 17

I will assume, unless you inform me otherwise, that since you continue to refuse to respond to my question about whether your client will produce this information, that you are not willing to consider this request for the information regarding income and financial statements and that you will not be producing the information.

Claire Xidis | Attorney at Law | Motley Rice LLC
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From: James Graves [<mailto:jgraves@bassettlawfirm.com>]
Sent: Tuesday, December 16, 2008 11:08 AM
To: Xidis, Claire
Subject: RE: State of Oklahoma et al v. Tyson et al

So from this email, I take it that the State's position is that none of the privately owned defendants produced sufficient information, which again begs the question of whether it is your contention that we all misunderstood you.

From: Xidis, Claire [<mailto:cxidis@motleyrice.com>]
Sent: Monday, December 15, 2008 1:06 PM
To: James Graves
Cc: Ward, Liza
Subject: RE: State of Oklahoma et al v. Tyson et al

I don't know who you have spoken with, but we have received various different things from defendants and need the same information from all privately owned defendants who produced insufficient information.

Are you willing to produce the information?

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From: James Graves [<mailto:jgraves@bassettlawfirm.com>]
Sent: Monday, December 15, 2008 12:34 PM
To: Xidis, Claire
Cc: Ward, Liza
Subject: Re: State of Oklahoma et al v. Tyson et al

My understanding is that what we produced is consistent with what other defendants produced. So did we all "misunderstand" you?

James M. Graves
Bassett Law Firm LLP
PO Box 3618
Fayetteville, AR
479-521-9996
Sent from my Blackberry Wireless Handheld Device

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2/27/2009

Re: State of Oklahoma et al v. Tyson et al

Page 5 of 17

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-----Original Message-----

From: Xidis, Claire <cxidis@motleyrice.com>
 To: James Graves
 CC: Ward, Liza <lward@motleyrice.com>
 Sent: Mon Dec 15 11:06:31 2008
 Subject: RE: State of Oklahoma et al v. Tyson et al

James,

Your ongoing, unfounded accusations about me and other counsel for the State are not helping this matter move forward one bit.

I am being absolutely straightforward with you and have been from the beginning of our meet and confer process on this issue. Unfortunately, it appears we have different recollections of what was said during our meet in the confer. Apparently, we should have meet and conferred in writing.

As I have explained, the reason we need income statements because they are a key part of understanding George's financial condition. Financial condition is an element of the punitive damages analysis which our expert is going to address. Income increases net worth, and losses decrease net worth. Usually, the largest component of net worth is based upon the level of income or loss. To understand the quality of net worth, one needs to understand a company's earning capacity.

Is your client willing to produce this information?

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From: James Graves [<mailto:jgraves@bassettlawfirm.com>]
 Sent: Friday, December 12, 2008 10:11 AM
 To: Xidis, Claire
 Cc: Ward, Liza
 Subject: RE: State of Oklahoma et al v. Tyson et al

To the extent you failed to record it in your notes, that is your issue. I did in fact tell you we would not produce income, cash flow or income tax returns. I told you we would produce net worth information exactly as we did in the Tulsa case, going back 5 years exactly as we did in the Tulsa case, and that it would show assets, liabilities and equity. Your caveat was that if there was not enough detail in those categories, you would reserve the right to request additional information. However, what you are requesting now is entirely different – you are not suggesting we failed to break out the assets, liabilities or equity in enough detail. Rather, you are requesting information that we stated at the outset we would not produce, which is what led to the agreement of what was produced.

There would have been no point in my agreeing to produce the information you now seek, because that is what we were meeting and conferring about in the first place. Your initial letter sought financial statements showing cash flows and income statements plus tax returns, and that is exactly what we consistently said we weren't going to produce, including at the meet and confer. The agreement reached at the met and confer was to produce what we produced in the Tulsa case, subject to your

2/27/2009

Re: State of Oklahoma et al v. Tyson et al

Page 6 of 17

ability to request more detail.

Having dealt with the State's attorneys on these types of issues multiple times now, I am well aware that you all will most likely misrepresent what was agreed upon in an attempt to get a new expert deadline and to get more information than what we agreed upon. That has been par for the course in this case from your side. You have yet to provide any explanation for why you would need more information than what has been provided, or why I should consider amending the agreement we reached.

James M. Graves

Bassett Law Firm LLP

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From: Xidis, Claire [<mailto:cxidis@motleyrice.com>]
Sent: Thursday, December 11, 2008 5:23 PM
To: James Graves
Cc: Ward, Liza
Subject: RE: State of Oklahoma et al v. Tyson et al

James,

I explained during our meet and confer weeks ago that we need income information. I just reviewed my notes from our meet and confer and I have no record or memory of you making a blanket refusal to produce income or cash flow material. We agreed I would review what you produced and let you know if we needed more information. That is what I am doing.

My intent from the beginning has been to try to reach an agreement in order to avoid having to take what seems like a pretty basic issue to the court. I do not understand your reference about the "stage" of the case. We are not at a preliminary stage in this case. As I explained during our meet and confer, expert reports on damages are due Jan. 5th and that is why we need this relevant information regarding Georges' financial condition.

2/27/2009

Re: State of Oklahoma et al v. Tyson et al

Page 7 of 17

Regrettably, I gather from your email below that you are absolutely unwilling to produce anything additional information regarding income, cash flow, or notes and disclosures that the statements clearly state are relevant to net worth. I am happy to discuss this further with you to try to move forward somehow, but from the tone of your email below I sense that you are not interested in doing that and it is your intent to cease any further effort at cooperation in the meet and confer process. If you are willing to try to have a productive exchange about this, please let me know.

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From: James Graves [<mailto:jgraves@bassettlawfirm.com>]
Sent: Thursday, December 11, 2008 12:06 PM
To: Xidis, Claire
Cc: Ward, Liza
Subject: Re: State of Oklahoma et al v. Tyson et al

What we have produced is exactly what was ordered and produced in the Tulsa case and exactly what we discussed. I told you at the outset we would not agree to produce income statements or cash flows and you know that. You have assets, liabilities and equity which is precisely what was agreed upon and precisely what was required in the Tulsa case. I also told you why the auditors made the statement, and they will explain it the same way.

Frankly I have no use for your attempt now to try and paper up a bait and switch as to what was agreed on. You already have more than you are entitled to at this stage of the case. If the net worth information we have supplied as agreed is so lacking then return all copies and file your motion, which was clearly your intent to begin with. I will seek cost, fees and sanctions for the time wasted by George's, its attorneys and accountants in what was obviously an exercise in bad faith on your part.

James M. Graves
Bassett Law Firm LLP
PO Box 3618
Fayetteville, AR
479-521-9996
Sent from my Blackberry Wireless Handheld Device

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-----Original Message-----
From: Xidis, Claire <cxidis@motleyrice.com>
To: James Graves
CC: Ward, Liza <lward@motleyrice.com>
Sent: Thu Dec 11 10:41:28 2008
Subject: RE: State of Oklahoma et al v. Tyson et al

James,

2/27/2009

Re: State of Oklahoma et al v. Tyson et al

Page 8 of 17

Our agreement was not limited to balance sheets, and during our meet and confer I explained that we would need financial statements that included information about income, equity, etc. and our agreement was that we would review what you produced and let you know if it was not sufficient information to determine financial condition, and if not we would revisit this issue.

I'm attaching a copy of the order from the City of Tulsa case regarding discovery of financial information. It specifically ordered the production of "financial statements," not just balance sheets. A financial statement consists of three parts - a balance sheet, an income statement, and a statement of cash flow. As I explained during our initial meet and confer a few weeks ago, we need information that explains the company's income as well as its assets, and this is not reflected in what you have provided. This is information, and any notes or disclosures that accompanied the balance sheets and financial statements are information we need to determine your clients' financial condition. Furthermore, it appears that the statement from the CPA is a significant disclaimer that clearly implies there are disclosures that impact the bottom line numbers on these sheets, so please produce those.

Can you please get us this additional key financial information that was previously requested as soon as possible.

Thank you,

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From: James Graves [<mailto:jgraves@bassettlawfirm.com>]
Sent: Tuesday, December 09, 2008 2:35 PM
To: Xidis, Claire
Cc: Ward, Liza
Subject: RE: State of Oklahoma et al v. Tyson et al

The meaning of the statement is that we had to remove profit loss, information about nondefendant companies etc that would ordinarily be included in a consolidated financial statement under GAAP for George's Inc, since George's is a parent company. You have all of the information that was agreed to - the net worth/balance sheet of George's Inc. However, in preparing a document like this for George's Inc that does not include consolidated information as described, it does not strictly comply with GAAP rules, so the CPA felt the need to include the introductory statement.

You were provided with full disclosure of the net worth/balance sheet for George's Inc and George's Farms, Inc.

From: Xidis, Claire [<mailto:cxidis@motleyrice.com>]
Sent: Tuesday, December 09, 2008 10:53 AM
To: James Graves
Cc: Ward, Liza
Subject: RE: State of Oklahoma et al v. Tyson et al
Importance: High

James, I just opened the Fed Ex of materials from you which arrived at my office this morning.

Each of the statements you provided for George's Inc. and George's Farms Inc. has an introductory statement from the CPA

2/27/2009

Re: State of Oklahoma et al v. Tyson et al

Page 9 of 17

that states:

"Management has elected to omit substantially all of the disclosures required by generally accepted accounting principals. If the omitted disclosures were included in the balance sheet, they might influence the user's conclusions about the Company's financial position. Accordingly, this balance sheet is not designed for those who are not informed about such matters."

This language from the CPA states that there is essential information that was removed from each of these statements that would influence the reader's conclusions about the company's financial position. We obviously really need the disclosures required by generally accepted accounting principals to be able to use these balance sheets. As I explained to you in our meet and confer weeks ago, the reason we need this information is for the purpose of our expert opinion on the George's Defendants financial condition - something that your clients' CPA clearly explains would be influenced by the important information that was taken out of these documents.

The fact key information has been intentionally removed from these documents is quite disappointing, especially in light of the fact this material reached us nearly 2 weeks after our agreed upon date for production.

Please let me know as soon as possible when you can get me versions of these documents that include the disclosures required by generally accepted accounting principals. As I have previously explained, we need this information in order to meet the Jan. 5th expert disclosure deadline.

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From: James Graves [<mailto:jgraves@bassettlawfirm.com>]
Sent: Monday, December 08, 2008 9:47 AM
To: Xidis, Claire
Cc: Ward, Liza
Subject: RE: State of Oklahoma et al v. Tyson et al

I should be sending these out sometime today. Thanks.

From: Xidis, Claire [<mailto:cxidis@motleyrice.com>]
Sent: Friday, December 05, 2008 9:11 AM
To: James Graves
Cc: Ward, Liza
Subject: RE: State of Oklahoma et al v. Tyson et al

Hi James-

Thank you for your response. Is there someone in your office who could please get the materials to me today via email?

2/27/2009

Re: State of Oklahoma et al v. Tyson et al

Page 10 of 17

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From: James Graves [<mailto:jgraves@bassettlawfirm.com>]
Sent: Thursday, December 04, 2008 10:02 PM
To: Xidis, Claire
Cc: Ward, Liza
Subject: RE: State of Oklahoma et al v. Tyson et al

Claire – This should be at my office. I am in Tulsa at the deposition of Dr. Cooke.

From: Xidis, Claire [<mailto:cxidis@motleyrice.com>]
Sent: Thursday, December 04, 2008 5:06 PM
To: James Graves
Cc: Ward, Liza
Subject: RE: State of Oklahoma et al v. Tyson et al

Hi James -

Can you please update me on the status of the production discussed below?

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o. 843.216.9251 | c. 843.834.4747 | f. 843.216.9450

From: James Graves [<mailto:jgraves@bassettlawfirm.com>]
Sent: Tuesday, December 02, 2008 5:55 PM
To: Xidis, Claire
Cc: Ward, Liza
Subject: RE: State of Oklahoma et al v. Tyson et al

There is no reason to resort to threats. We had an accountant out on vacation. We expect to receive the information tomorrow. I will get it to you as soon as I receive it.

James M. Graves

Bassett Law Firm LLP

2/27/2009

Re: State of Oklahoma et al v. Tyson et al

Page 11 of 17

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From: Xidis, Claire [<mailto:cxidis@motleyrice.com>]
Sent: Tuesday, December 02, 2008 4:51 PM
To: James Graves
Cc: Ward, Liza
Subject: RE: State of Oklahoma et al v. Tyson et al

James,

2/27/2009

Re: State of Oklahoma et al v. Tyson et al

Page 12 of 17

What is the status of production of George's financial information? Tomorrow will be one week past the time we agreed upon for production. If we do not receive this from you by the close of business Thursday, we will be forced to seek relief from the court and notice a corporate representative for deposition on these issues in order to obtain this information.

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From: James Graves [<mailto:jgraves@bassettlawfirm.com>]
Sent: Monday, December 01, 2008 9:58 AM
To: Xidis, Claire
Subject: RE: State of Oklahoma et al v. Tyson et al

I had expected it as well, but I was also out of the office last week. I will follow up today and get it to you as soon as possible. Thanks.

James M. Graves

Bassett Law Firm LLP

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United States of America

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From: Xidis, Claire [<mailto:cxidis@motleyrice.com>]
Sent: Sunday, November 30, 2008 3:41 PM
To: James Graves
Subject: RE: State of Oklahoma et al v. Tyson et al

Hi James,

2/27/2009

Re: State of Oklahoma et al v. Tyson et al

Page 13 of 17

Pursuant to the agreement we reached, I was expecting to get George's financial information for 2003- 2008 prior to the Thanksgiving holiday. I haven't received anything via email or hard copy from you. Can you please let me know the status of this?

Thank you,

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From: James Graves [<mailto:jgraves@bassettlawfirm.com>]
Sent: Monday, November 10, 2008 4:12 PM
To: Xidis, Claire; Ward, Liza
Subject: RE: State of Oklahoma et al v. Tyson et al

That works. Talk to you then.

From: Xidis, Claire [<mailto:cxidis@motleyrice.com>]
Sent: Monday, November 10, 2008 3:11 PM
To: James Graves; Ward, Liza
Subject: RE: State of Oklahoma et al v. Tyson et al

James - Would 10:00 am Eastern/ 9:00 am Central work for you on Wednesday?

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From: James Graves [<mailto:jgraves@bassettlawfirm.com>]
Sent: Monday, November 10, 2008 4:09 PM
To: Xidis, Claire; Ward, Liza
Subject: RE: State of Oklahoma et al v. Tyson et al

Let's shoot for Wed morning. What time?

2/27/2009

Re: State of Oklahoma et al v. Tyson et al

Page 14 of 17

From: Xidis, Claire [<mailto:cxidis@motleyrice.com>]
Sent: Monday, November 10, 2008 1:39 PM
To: Ward, Liza; James Graves
Subject: RE: State of Oklahoma et al v. Tyson et al

James -

You you available this afternoon, Tuesday morning or Wednesday morning to discuss your attached letter? We need to determine if we can reach an agreement on these issues and avoid court intervention.

Thank you,

Claire Xidis | Attorney at Law | Motley Rice LLC
28 Bridgeside Blvd. | Mt. Pleasant, SC 29464 | cxidis@motleyrice.com
o. 843.216.9251 | c. 843.834.4747 | f. 843.216.9450

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From: Ward, Liza
Sent: Friday, October 31, 2008 4:09 PM
To: James Graves
Cc: Xidis, Claire
Subject: RE: State of Oklahoma et al v. Tyson et al

Thanks for your response. I start a trial next Thursday. Is there any way we could try to talk before then? Thank you.

Elizabeth "Liza" C. Ward | Attorney at Law | Motley Rice LLC
28 Bridgeside Blvd. | Mt. Pleasant, SC 29464 | lward@motleyrice.com
o. 843 216-9280 | c. 843 834 2514 | f. 843.216.9450

From: James Graves [<mailto:jgraves@bassettlawfirm.com>]
Sent: Friday, October 31, 2008 3:52 PM
To: Ward, Liza; Haubert, Jane M.
Cc: robert.george@tyson.com; Michael.Bond@KutakRock.com; Robert Sanders; Griffin, Jennifer; Scott McDaniel; Philip Hixon; John Elrod; Vicki Bronson; Ehrich, Delmar R.; Jones, Bruce; jtucker@rhodesokla.com; Woody Bassett; KC Tucker; Gary Weeks
Subject: RE: State of Oklahoma et al v. Tyson et al

2/27/2009

Re: State of Oklahoma et al v. Tyson et al

Page 15 of 17

Please see the attached correspondence.

Thank you,

James M. Graves

Bassett Law Firm LLP

221 North College Avenue

Post Office Box 3618

Fayetteville, Arkansas 72702-3618

United States of America

Phone: (479) 521-9996

Fax: (479) 521-9600

From: Haubert, Jane M. [<mailto:jhaubert@motleyrice.com>]

Sent: Friday, October 24, 2008 5:51 PM

To: James Graves

Subject: State of Oklahoma et al v. Tyson et al

Please see attached

Jane M. Haubert | Legal Secretary | Motley Rice LLC
28 Bridgeside Blvd. | Mt. Pleasant, SC 29464
o. 843.216.9417 | f. 843.216.9450 | jhaubert@motleyrice.com

From: Haubert, Jane M.
Sent: Friday, October 24, 2008 6:32 PM
To: Haubert, Jane M.; Ward, Liza
Subject: Scanned document from Haubert, Jane M.

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2/27/2009

Re: State of Oklahoma et al v. Tyson et al

Page 16 of 17

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Re: State of Oklahoma et al v. Tyson et al

Page 17 of 17

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2/27/2009

Xidis, Claire

From: Ward, Liza
Sent: Monday, February 09, 2009 10:52 AM
To: 'jgraves@bassettlawfirm.com'
Cc: Xidis, Claire
Subject: Re: George's Financial Information

The financial information that we received on January 5. Next week is fine. Please let me know what day and time work for you. Thanks.

----- Original Message -----

From: James Graves <jgraves@bassettlawfirm.com>
To: Ward, Liza
Sent: Mon Feb 09 09:42:42 2009
Subject: RE: George's Financial Information

Liza - I am out this week. What about next week, and what is the discussion agenda?

From: Ward, Liza [mailto:lward@motleyrice.com]
Sent: Friday, February 06, 2009 1:29 PM
To: James Graves
Subject: George's Financial Information

James,

Do you have time to speak with Claire and me this afternoon or sometime in the early part of next week?

Elizabeth "Liza" C. Ward | Attorney at Law | Motley Rice LLC
28 Bridgeside Blvd. | Mt. Pleasant, SC 29464 | lward@motleyrice.com o. 843 216-9280 | c.
843.834.2514 | f. 843.216.9450

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October 31, 2008

Re: State of Oklahoma et al. v.
Tyson Foods, Inc. et al.

Ms. Liza Ward
Motley Rice LLC
28 Bridgeside Blvd.
P.O. Box 1792
Mount Pleasant, SC 29465

Dear Ms. Ward:

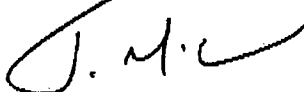
This will acknowledge receipt of your letter of October 24, 2008 concerning certain document requests for financial information of George's, Inc. and George's Farms, Inc. First of all, your unilaterally determined seven-day deadline is not a reasonable or realistic approach to this issue nor do we agree to submit to it, particularly in light of the State's continued supplementation of new materials months after we request such supplementation. Second, the subject requests were overly broad and unduly burdensome in that they contain no limitation as to scope – time, types of records, or otherwise. Your letter does little to rectify that issue. Furthermore, we believe that the requests are harassing in nature in that George's is a privately held company and there has been no support in the record to presume at this stage of the case that production of its confidential financial information is appropriate.

Nevertheless, we are in the process of consulting with our client concerning our current position. We can schedule a meet and confer sometime in the next couple of weeks to discuss this issue and determine if there is any possible resolution short of Court intervention.

Please do not hesitate to contact me if you have any questions. Thank you very much.

Sincerely,

BASSETT LAW FIRM


James M. Graves

JMG/jea

